IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 48 OF 2006

1. Girish Dhruva Dharaskar,
2. Aasawari Girish Dharaskar. ...Applicants

V/s.

State of Maharashtra. ...Respondent

Mr.K.S. Patil for Applicants.
Ms.M.M. Deshmukh, APP for the State.

CORAM : V.M. KANADE, J.

DATED : FEBRUARY 8, 2006

P.C. :-

. Heard learned Counsel for the applicants and learned APP for the State.

. This is an application for anticipatory bail filed by the applicants who have an apprehension that they are likely to be arrested in connection with an offence which is registered by the Pimpri Police Station for the offence punishable under Section 420, 406 of the IPC.

2. The Small Industries Development Bank of India disbursed the amount of Rs.1 crore to the applicant no.1 out of the total sanctioned amount of Rs.274 lakhs for the purpose of starting and developing the project of

construction of cultural park, amusement park, water park. The finance which was given was fully secured by the Bank. After an amount of Rs.1 crore was disbursed, routine inspection was carried out by the officers of the Bank and it was noticed that the entire amount had not been consumed for the purpose of carrying out the construction of the said cultural park. An inquiry was made with their bank in respect of the cheques which were issued by the Bank in favour of various firms who had allegedly supplied the said material which was to be used in the amusement park and in the said enquiry, it transpired that all these firms were proprietary firms in the name of the applicant no.1. Therefore, a notice was issued to the applicant and an explanation was sought, however, satisfactory explanation according to the bank was not given. The bank, therefore, issued a notice under Section 13 of the Securatisation Act and demanded the entire amount which it had paid alongwith the interest and the entire property of the applicant was seized and thereafter, criminal complaint for the offence punishable under Sections 406 and 420 of the IPC was filed.

3. It is submitted by the learned Counsel for the applicants that the applicant had invested, the amount which was disbursed, in the said cultural park itself. This was evident from the notice which was issued by the bank under Section 13 which itself indicated that these amounts had been invested in the said cultural park. It is submitted, therefore, that the apprehension of defalcation by the applicant as expressed by the bank was unfounded and false. He, therefore, submitted that this is a fit case of grant of anticipatory bail.

4. Learned APP appearing on behalf of the State invited my attention to the valuation report submitted by one of the valuers which indicated that the amount which was to be invested in the said cultural park was misappropriated. This, however, was vehemently denied by the Counsel for the applicants. He submitted that the valuation report which was submitted clearly contradicted the notice which was issued by the bank under Section 13 of the said Act. He submitted that the figures which was shown in the valuation report were

under valued.

5. After Considering the submissions made by both the learned Counsel appearing for the applicants and learned APP appearing for the State at length and perusal of the affidavit in reply filed by the Bank Officials, in my view, a prima facie case is made out for grant of anticipatory bail. The amount which was disbursed by the Bank was fully secured and admittedly, the valuation of the property which were seized and acquired by the bank is more than Rs.3 crores whereas the amount which is disbursed was one crore. According to the agreement which was executed by the bank with the applicant no.1, there was moratorium period of one year which was to expire in March 2005. However before the expiry of the said period, the bank had seized the property alongwith the material of the applicant. In any case, the dispute prima facie appears to be of a civil nature and custodial interrogation, therefore, is not necessary. Under these circumstances, in my view, prima facie case is made out for grant of anticipatory bail.

6. The applicants, in the event of their arrest in connection with an offence which is registered by the Pimpri Police Station vide C.R.No.390/2005 for the offence punishable under Sections 420, 406 of the IPC be released on bail in the sum of Rs.25,000/- each with one or two sureties in the like amount. The applicant no.1 shall report to the Pimpri Police Station once in a week till the filing of the chargesheet and thereafter, twice in a month. Applicant No.2 to report to Pimpri Police Station as and when she is required. If she is called by the Pimpri Police Station, notice of 48 hours be given to her and she may be interrogated during reasonable hours i.e. from 11.00 a.m. to 5.00 p.m. only. The applicant no.2 may not be unnecessarily called at the police station when her presence is not required. The applicant No.1 shall co-operate with the police and initially report to Pimpri Police Station for period of seven days i.e. on 13th, 14th, 15th, 17th, 20th, 21st and 22nd February, 2006 from 11 to 5 p.m. and shall give the details of the amount which he has disbursed to the various firms and other particulars, as

required by the Investigating Officer.

. Application is disposed of in the above terms.

(V.M. KANANDE, J.)